

# In the Court of Appeals of the State of Alaska

**Christopher Twiford,**

Appellant,

v.

**State of Alaska,**

Appellee.

Court of Appeals No. **A-13522**

## **Order**

Date of Order: **10/16/2019**

Trial Court Case No. **3KO-19-00062CR**

The Appellant, Christopher Twiford, has filed an appeal under Appellate Rule 216, challenging the superior court's denial of a peremptory challenge. The challenge was denied because the superior court found it was untimely.

Under Appellate Rule 216, this appeal is expedited, but the State has requested a ten-day extension to file its memorandum in this appeal. Mr. Twiford opposes the State's request. Among other things, Mr. Twiford points out that the State is asking to file its pleading on October 31, 2019, which is two days after the next-scheduled hearing in this case. Mr. Twiford points out that the challenged judge is scheduled to preside over this hearing.

But under Criminal Rule 25(d)(3), as a general matter, if a party peremptorily challenges a judge in a timely manner, "[that] judge shall proceed no further in the action, except to make such temporary orders as may be absolutely necessary to prevent immediate and irreparable injury before the action can be transferred to another judge." *Cf. Dominguez v. State*, 181 P.3d 1111, 1112 (Alaska App. 2008). Although the timeliness of the challenge is the subject matter of this appeal, this Court concludes that Criminal Rule 25(d)(3) nonetheless applies while a Rule 216

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appeal is pending. In other words, when a defendant appeals the denial of a peremptory challenge, the challenged judge is prohibited from taking further action in the case — except to make such temporary orders as may be absolutely necessary to prevent immediate and irreparable injury — until this Court resolves the appeal.

Accordingly, **IT IS ORDERED:**

The State's request for a ten-day extension to file its memorandum in this appeal is **GRANTED**.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts

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Sarah Anderson, Deputy Clerk

cc: Judge Wallace  
Kodiak Trial Court Clerk

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